

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2003-293-C - ORDER NO. 2005-411  
JULY 27, 2005

IN RE: Savannah Valley Cablevision, Inc.,	)	ORDER DENYING
	)	REHEARING OR
Complainant/Petitioner,	)	RECONSIDERATION
	)	
vs.	)	
	)	
West Carolina Rural Telephone Cooperative,	)	
Inc. and West Carolina Communications,	)	
LLC,	)	
	)	
Respondents.	)	
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This matter comes before the Public Service Commission of South Carolina ("Commission") upon the petition of Savannah Valley Cablevision, Inc. ("SVC"), dated October 8, 2004, for rehearing or reconsideration of Commission Order No. 2004-447 issued on September 24, 2004 in the above-captioned docket.

In its petition, SVC first submits that the Commission has a statutory obligation, pursuant to S.C. Code Ann. § 58-9-250, to review contracts between a regulated utility and an affiliate providing non-regulated service. Petition at ¶ 4. In a related argument, SVC asserts the Commission acted arbitrarily and capriciously in ignoring its own

Regulation 103-603. Petition at ¶ 7. We disagree. Both of these arguments were raised and fully considered by the Commission. We rejected them for the reasons set forth in detail at pages 9-12 of Order No. 2004-447.

SVC further contends that the Commission failed to address the broad language of S.C. Code Ann. § 58-9-230(A) which authorizes the Commission to oversee rates charged by West Carolina Rural Telephone Cooperative (“WCRTC”). Petition at ¶ 5. According to SVC, if contracts are not filed and reviewed by the Commission, a regulated utility “could potentially be charging” discriminatory rates to an affiliate. *Id.* Neither the Complaint nor the Brief filed by SVC in this matter contains this argument or a reference to § 58-9-230(A). Assuming the issue is properly preserved, however, it is essentially the same argument SVC made with respect to S.C. Code Ann. § 58-9-250. We do not believe S.C. Code Ann. § 58-9-230(A) requires the filing of contracts between affiliates for many of the same reasons cited at pages 9-12 of Order No. 2004-447. Like Section 58-9-250, Section 58-9-230(A) does not address or require the filing of contracts. Nevertheless, WCRTC and its affiliate, West Carolina Communications, LLC, filed the contracts at issue with the Commission when ordered to do so,<sup>1</sup> as required by S.C. Code Ann. § 58-9-320. See Order No. 2004-446 (wherein the Commission ordered WCRTC and WCC to provide “any and all records and information belonging to them regarding or relevant to affiliated transactions, including any information concerning or relating to contracts or arrangements governing the transactions between those two companies,” and further ordered Commission Staff to review the information and prepare a report

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<sup>1</sup> In fact, WCRTC and WCC had earlier voluntarily provided the contracts at issue to SVC and to the Commission in response to Interrogatories and Requests for the Production of Documents served upon the companies by SVC in this docket.

concerning the business arrangements, transactions and contracts between WCRTC and WCC.) The Commission has examined the contracts and transactions between WCRTC and WCC, and found them to be fair and reasonable, as detailed in Order No. 2004-447.

SVC also argues that the Commission failed to address the statutory mandate of S.C. Code Ann. § 58-9-290. This argument was not raised in SVC's Complaint or Brief, nor was it raised during the hearing before the Commission. Thus, it is not properly raised for the first time in a petition for rehearing or reconsideration. See Kiawah Property Owners Group v. Public Service Commission, 359 S.C. 105, 597 S.E.2d 145 (2004).

Finally, SVC appears to take issue with the Commission Staff's examination and conclusions with respect to the relationship and allocation of costs between WCRTC and WCC. Petition at ¶ 6 [sic].<sup>2</sup> Again, this was considered and addressed in detail by this Commission. See Order No. 2004-447 at 12-16. There is more than substantial evidence in the record to support the Commission's conclusions that appropriate procedures are in place to properly segregate the operations of WCC from regulated telephone operations of WCRTC, and that transactions between WCRTC and WCC are handled at arm's length. As the Commission Staff reported and this Commission found, WCC compensates WCRTC for all facilities and services used, and those transactions are properly accounted for on the books of the respective companies and through promissory notes, time studies, time sheets, CABS bills, and other records. In fact, as we noted in Order No. 2004-447, SVC presented no testimony or evidence to dispute the arm's length

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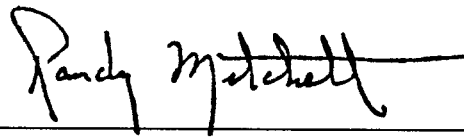
<sup>2</sup> There are two paragraphs numbered "6" in SVC's petition. This reference is to the second paragraph 6, which follows paragraph 7, at the bottom of page 3 of the petition.

nature of the relationship and transactions, but merely asked the Commission to look into these matters. See Testimony of Jennings McAbee at 6. The Commission has done so.

For the reasons stated herein, Savannah Valley Cablevision, Inc.'s Petition for Rehearing or Reconsideration of Order No. 2004-447 is denied and dismissed.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



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Randy Mitchell, Chairman

ATTEST:



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G. O'Neal Hamilton, Vice Chairman

(SEAL)